

1                                   A bill to be entitled  
 2           An act relating to vocational rehabilitation programs;  
 3           amending s. 413.20, F.S.; redefining and deleting terms;  
 4           replacing an obsolete term; repealing s. 413.206, F.S.,  
 5           relating to a 5-year plan for the Division of Vocational  
 6           Rehabilitation within the Department of Education;  
 7           amending s. 413.30, F.S.; revising provisions relating to  
 8           eligibility for services; requiring the division to  
 9           conduct trial work experiences before determining that an  
 10          individual is incapable of benefiting from services;  
 11          requiring the division to refer an individual to other  
 12          programs if the division determines that the individual is  
 13          ineligible for services; requiring the division to serve  
 14          those having the most significant disabilities first under  
 15          specified circumstances; replacing an obsolete term;  
 16          conforming provisions to changes made by the act; amending  
 17          s. 413.341, F.S.; allowing confidential records to be  
 18          released for research, evaluation, or audit purposes;  
 19          amending ss. 413.371, 413.39, 413.393, and 413.40, F.S.;  
 20          replacing an obsolete term; repealing ss. 413.70 and  
 21          413.72, F.S., relating to the limiting disabilities  
 22          program; repealing s. 413.73, F.S., relating to the  
 23          disability assistance program; providing an effective  
 24          date.

26   Be It Enacted by the Legislature of the State of Florida:

27

28 Section 1. Subsections (12) through (33) of section  
 29 413.20, Florida Statutes, are amended to read:

30 413.20 Definitions.--As used in this part, the term:

31 (12) "Independent living services" means any appropriate  
 32 rehabilitation service that will enhance the ability of a person  
 33 who has a significant ~~severe~~ disability to live independently,  
 34 to function within her or his family and community and, if  
 35 appropriate, to secure and maintain employment. Services may  
 36 include, but are not limited to, psychological counseling and  
 37 psychotherapeutic counseling; independent living care services;  
 38 community education and related services; housing assistance;  
 39 physical and mental restoration; personal attendant care;  
 40 transportation; personal assistance services; interpretive  
 41 services for persons who are deaf; recreational activities;  
 42 services to family members of persons who have significant  
 43 ~~severe~~ disabilities; vocational and other training services;  
 44 telecommunications services; sensory and other technological  
 45 aids and devices; appropriate preventive services to decrease  
 46 the needs of persons assisted under the program; and other  
 47 rehabilitation services appropriate for the independent living  
 48 needs of a person who has a significant ~~severe~~ disability.

49 ~~(13) "Limiting disability" means a physical condition that~~  
 50 ~~constitutes, contributes to, or, if not corrected, will result~~  
 51 ~~in an impairment of one or more activities of daily living but~~  
 52 ~~does not result in an individual qualifying as a person who has~~  
 53 ~~a disability.~~

54        (13)~~(14)~~ "Occupational license" means any license, permit,  
 55 or other written authority required by any governmental unit to  
 56 be obtained in order to engage in an occupation.

57        (14)~~(15)~~ "Ongoing support services" means services  
 58 provided at a twice-monthly minimum to persons who have a most  
 59 significant disability, to:

60            (a) Make an assessment regarding the employment situation  
 61 at the worksite of each individual in supported employment or,  
 62 under special circumstances at the request of the individual,  
 63 offsite.

64            (b) Based upon the assessment, provide for the  
 65 coordination or provision of specific intensive services, at or  
 66 away from the worksite, which ~~that~~ are needed to maintain the  
 67 individual's employment stability.

68  
 69 The ongoing support services may consist of, but are not limited  
 70 to, the provision of skilled job trainers who accompany the  
 71 individual for intensive job-skill training at the worksite, job  
 72 development and placement, social skills training, followup  
 73 services, and facilitation of natural supports at the worksite.

74        (15)~~(16)~~ "Person who has a disability" means an individual  
 75 who has a physical or mental impairment that, for the  
 76 individual, constitutes or results in a substantial impediment  
 77 to employment and who can ~~therefore~~ benefit in terms of an  
 78 employment outcome from vocational rehabilitation services. The  
 79 term encompasses the terms "person who has a significant  
 80 disability" and "person who has a most significant disability."

81            (16)~~(17)~~ "Person who has a significant disability" means  
 82 an individual who has a disability that is a severe physical or  
 83 mental impairment that seriously limits one or more functional  
 84 capacities, such as mobility, communication, self-care, self-  
 85 direction, interpersonal skills, work tolerance, or work skills,  
 86 in terms of an employment outcome; whose vocational  
 87 rehabilitation may be expected to require multiple vocational  
 88 rehabilitation services over an extended period of time; and who  
 89 has one or more physical or mental disabilities resulting from  
 90 amputation, arthritis, autism, blindness, burn injury, cancer,  
 91 cerebral palsy, cystic fibrosis, deafness, head injury, heart  
 92 disease, hemiplegia, hemophilia, respiratory or pulmonary  
 93 dysfunction, mental retardation, mental illness, multiple  
 94 sclerosis, muscular dystrophy, musculoskeletal disorder,  
 95 neurological disorder, including stroke and epilepsy,  
 96 paraplegia, quadriplegia, or other spinal cord condition,  
 97 sickle-cell anemia, specific learning disability, end-stage  
 98 renal disease, or another disability or a combination of  
 99 disabilities that is determined, after an assessment for  
 100 determining eligibility and vocational rehabilitation needs, to  
 101 cause comparable substantial functional limitation.

102            (17)~~(18)~~ "Person who has a most significant disability"  
 103 means a person who has a significant disability who meets the  
 104 designated administrative unit's criteria for a person who has a  
 105 most significant disability.

106            (18)~~(19)~~ "Personal assistance services" means a range of  
 107 services, provided by one or more persons, designed to assist an  
 108 individual ~~a person~~ who has a disability to perform daily living

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109 activities, on or off the job, which ~~that~~ the individual would  
110 typically perform if the individual did not have a disability.  
111 Such services shall be designed to increase the individual's  
112 control in life and ability to perform everyday activities on or  
113 off the job. The services must be necessary for achieving an  
114 employment outcome and may be provided only if the individual is  
115 receiving other vocational rehabilitation services. The services  
116 may include training in managing, supervising, and directing  
117 personal assistance services.

118 ~~(19)-(20)~~ "Physical and mental restoration" means any  
119 medical, surgical, or therapeutic treatment necessary to correct  
120 or substantially modify a physical or mental condition that is  
121 stable or slowly progressive and constitutes an impediment to  
122 employment, but is of such nature that the treatment can  
123 reasonably be expected to correct or modify such impediment to  
124 employment within a reasonable length of time, including, but  
125 not limited to, medical, psychiatric, dental, and surgical  
126 treatment, nursing services, hospital care in connection with  
127 surgery or treatment, convalescent home care, drugs, medical and  
128 surgical supplies, and prosthetic and orthotic devices.

129 ~~(21)~~ "Program" ~~means an agency, organization, or~~  
130 ~~institution, or a unit of an agency, organization, or~~  
131 ~~institution, that provides directly or facilitates the provision~~  
132 ~~of vocational rehabilitation services as one of its major~~  
133 ~~functions.~~

134 ~~(22)~~ "Rehabilitation" ~~means those events and processes~~  
135 ~~occurring after injury and progressing to ultimate stabilization~~  
136 ~~and maximum possible recovery.~~

137 ~~(23) "Rehabilitation service" means any service, provided~~  
 138 ~~directly or indirectly through public or private agencies, found~~  
 139 ~~by the division to be necessary to enable a person who has a~~  
 140 ~~limiting disability to engage in competitive employment.~~

141 ~~(24) "Rules" means rules adopted by the department in the~~  
 142 ~~manner prescribed by law.~~

143 (20)~~(25)~~ "State plan" means the state plan approved by the  
 144 Federal Government as qualifying for federal funds under the  
 145 Rehabilitation Act of 1973, as amended. However, the term "state  
 146 plan," as used in ss. 413.39-413.401, means the State Plan for  
 147 Independent Living Rehabilitative Services under Title VII(A) of  
 148 the Rehabilitation Act of 1973, as amended.

149 (21)~~(26)~~ "Supported employment" means competitive work in  
 150 integrated working settings for persons who have a most  
 151 significant disability ~~severe disabilities~~ and for whom  
 152 competitive employment has not traditionally occurred or for  
 153 whom competitive employment has been interrupted or is  
 154 intermittent as a result of such a ~~severe~~ disability. Persons  
 155 who have a most significant disability ~~severe disabilities~~  
 156 requiring supported employment need intensive supported  
 157 employment services or extended services in order to perform  
 158 such work.

159 (22)~~(27)~~ "Supported employment services" means ongoing  
 160 support services and other appropriate services needed to  
 161 support and maintain a person who has a most significant ~~severe~~  
 162 disability in supported employment. Supported employment  
 163 services are based upon a determination of the needs of the  
 164 eligible individual as specified in the person's individualized

165 plan for employment ~~written rehabilitation program~~. The services  
 166 are provided singly or in combination and are organized and made  
 167 available in such a way as to assist eligible individuals in  
 168 entering or maintaining integrated, competitive employment. The  
 169 services are provided for a ~~period of time not to extend beyond~~  
 170 ~~18~~ months, but can be extended under special circumstances with  
 171 the consent of the individual in order to achieve the objectives  
 172 of the rehabilitation plan.

173 (23) ~~(28)~~ "Third-party coverage" means any claim for, right  
 174 to receive payment for or any coverage for, the payment of any  
 175 vocational rehabilitation and related services.

176 (24) ~~(29)~~ "Third-party payment" means any and all payments  
 177 received or due as a result of any third-party coverage.

178 (25) ~~(30)~~ "Transition services" means a coordinated set of  
 179 activities for a student, designed within an outcome-oriented  
 180 process, which ~~that~~ promote movement from school to postschool  
 181 activities, including postsecondary education; vocational  
 182 training; integrated employment; ~~including~~ supported employment;  
 183 continuing and adult education; adult services; independent  
 184 living; or community participation. The coordinated set of  
 185 activities must be based upon the individual student's needs,  
 186 taking into account the student's preferences and interests, and  
 187 must include instruction, community experiences, the development  
 188 of employment and other postschool adult living objectives, and,  
 189 if ~~when~~ appropriate, acquisition of daily living skills and  
 190 functional vocational evaluation.

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191 ~~(31) "Transitional living facility" means a state approved~~  
 192 ~~facility as defined and licensed pursuant to chapter 400 and~~  
 193 ~~division approved in accord with this part.~~

194 (26)~~(32)~~ "Vocational rehabilitation" and "vocational  
 195 rehabilitation services" mean any service, provided directly or  
 196 through public or private entities ~~instrumentalities~~, to enable  
 197 an individual or group of individuals to achieve an employment  
 198 outcome, including, but not limited to, medical and vocational  
 199 diagnosis, an assessment for determining eligibility and  
 200 vocational rehabilitation needs by qualified personnel;  
 201 counseling, guidance, and work-related placement services;  
 202 vocational and other training services; physical and mental  
 203 restoration services; maintenance for additional costs incurred  
 204 while participating in rehabilitation; interpreter services for  
 205 individuals who are deaf; recruitment and training services to  
 206 provide new employment opportunities in the fields of  
 207 rehabilitation, health, welfare, public safety, law enforcement,  
 208 and other appropriate service employment; occupational licenses;  
 209 tools, equipment, and initial stocks and supplies;  
 210 transportation; telecommunications, sensory, and other  
 211 technological aids and devices; rehabilitation technology  
 212 services; referral services designed to secure needed services  
 213 from other agencies; transition services; on-the-job or other  
 214 related personal assistance services; and supported employment  
 215 services.

216 ~~(33) "Vocational rehabilitation and related services"~~  
 217 ~~means any services that are provided or paid for by the~~  
 218 ~~division.~~

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219 Section 2. Section 413.206, Florida Statutes, is repealed.

220 Section 3. Subsections (2) through (7) of section 413.30,  
221 Florida Statutes, are amended to read:

222 413.30 Eligibility for vocational rehabilitation  
223 services.--

224 (2) Determinations by other state or federal agencies  
225 regarding whether an individual satisfies one or more factors  
226 relating to the determination that an individual has a  
227 disability may be used. Individuals determined to have a  
228 disability pursuant to Title II or Title XVI of the Social  
229 Security Act shall be considered to have a physical or mental  
230 impairment that constitutes or results in a substantial  
231 impediment to employment and a significant disability ~~severe~~  
232 ~~physical or mental impairment that seriously limits one or more~~  
233 ~~functional capacities in terms of an employment outcome.~~

234 (3) An individual is ~~shall be~~ presumed to benefit in terms  
235 of an employment outcome from vocational rehabilitation services  
236 under this part unless the division can demonstrate by clear and  
237 convincing evidence that the individual is incapable of  
238 benefiting from vocational rehabilitation services in terms of  
239 an employment outcome. Before making such a determination, the  
240 division must consider the individual's abilities, capabilities,  
241 and capacity to perform in a work situation through the use of  
242 trial work experiences. Trial work experiences include supported  
243 employment, on-the-job training, or other work experiences using  
244 realistic work settings. Under limited circumstances, if an  
245 individual cannot take advantage of trial work experiences or if  
246 options for trial work experiences have been exhausted ~~to~~

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247 ~~demonstrate that an individual cannot benefit from vocational~~  
 248 ~~rehabilitation services due to the severity of the individual's~~  
 249 ~~disability,~~ the division shall conduct an extended evaluation,  
 250 ~~not to exceed 18~~ months. The evaluation must determine the  
 251 eligibility of the individual and the nature and scope of needed  
 252 vocational rehabilitation services. The extended evaluation must  
 253 be reviewed once every 90 days to determine whether the  
 254 individual is eligible for vocational rehabilitation services.

255 (4) The division shall determine the eligibility of an  
 256 individual for vocational rehabilitation services within a  
 257 reasonable period of time, not to exceed 60 days after the  
 258 individual has submitted an application to receive vocational  
 259 rehabilitation services, ~~unless the division notifies the~~  
 260 ~~individual that exceptional and unforeseen circumstances beyond~~  
 261 ~~the control of the division prevent the division from completing~~  
 262 ~~the determination within the prescribed time and the~~ division  
 263 and the individual agree ~~agrees~~ that an extension of time is  
 264 warranted ~~or that an extended evaluation is required.~~

265 (5) As soon as a determination has been made that an  
 266 individual is eligible for vocational rehabilitation services,  
 267 the division must complete an assessment for determining  
 268 eligibility and vocational rehabilitation needs and ensure that  
 269 an individualized plan for employment ~~written rehabilitation~~  
 270 ~~program~~ is prepared.

271 (a) Each plan for employment ~~The individualized written~~  
 272 ~~rehabilitation program~~ must be jointly developed, agreed upon,  
 273 and signed by the vocational rehabilitation counselor or  
 274 coordinator and the eligible individual or, in an appropriate

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275 | case, a parent, family member, guardian, advocate, or authorized  
 276 | representative, of the ~~such~~ individual.

277 |       (b) The division must ensure that each plan for employment  
 278 | ~~individualized written rehabilitation program~~ is designed to  
 279 | achieve the specific employment outcome ~~objective~~ of the  
 280 | individual, consistent with the unique strengths, resources,  
 281 | priorities, concerns, abilities, and capabilities of the  
 282 | individual, and otherwise meets the content requirements for an  
 283 | individualized plan for employment ~~written rehabilitation~~  
 284 | ~~programs~~ as set out in federal law or regulation.

285 |       (c) Each plan for employment ~~individualized written~~  
 286 | ~~rehabilitation program~~ shall be reviewed annually, at which time  
 287 | the individual, or the individual's parent, guardian, advocate,  
 288 | or authorized representative, shall be afforded an opportunity  
 289 | to review the plan ~~program~~ and jointly redevelop and agree to  
 290 | its terms. Each plan ~~individualized written rehabilitation~~  
 291 | ~~program~~ shall be revised as needed.

292 |       (6) The division must ensure that a determination of  
 293 | ineligibility made with respect to an individual before ~~prior to~~  
 294 | the initiation of an individualized plan for employment ~~written~~  
 295 | ~~rehabilitation program~~, based upon the review, and, to the  
 296 | extent necessary, upon the preliminary assessment, includes  
 297 | specification of the reasons for such a determination; the  
 298 | rights and remedies available to the individual, including, if  
 299 | appropriate, recourse to administrative remedies; and the  
 300 | availability of services provided by the client assistance  
 301 | program to the individual. If there is a determination of  
 302 | ineligibility, the division must refer the individual to other

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303 programs that are part of the one-stop delivery system under the  
 304 Workforce Investment Act that address the individual's training  
 305 or employment-related needs, or to local extended employment  
 306 providers if the determination is based on a finding that the  
 307 individual is incapable of achieving an employment outcome.

308 (7) If ~~In the event~~ the division is unable to provide  
 309 services to all eligible individuals, the division shall  
 310 establish an order of selection and serve ~~first~~ those persons  
 311 who have the most significant ~~severe~~ disabilities first.

312 Section 4. Paragraph (b) of subsection (1) of section  
 313 413.341, Florida Statutes, is amended to read:

314 413.341 Applicant and client records; confidential and  
 315 privileged.--

316 (1) All oral and written records, information, letters,  
 317 and reports received, made, or maintained by the division  
 318 relative to any client or applicant are privileged,  
 319 confidential, and exempt from the provisions of s. 119.07(1).  
 320 Any person who discloses or releases such records, information,  
 321 or communications in violation of this section commits a  
 322 misdemeanor of the second degree, punishable as provided in s.  
 323 775.082 or s. 775.083. Such records may not be released except  
 324 that:

325 (b) Records that ~~do not~~ identify clients or applicants may  
 326 be released for the purpose of research, evaluation, or audit if  
 327 ~~when the research is~~ approved by the division director.  
 328 Personally identifying information released under this paragraph  
 329 to persons officially connected with the audit, evaluation, or

330 research remains privileged, confidential, and exempt under this  
 331 section and may not be disclosed to third parties.

332 Section 5. Section 413.371, Florida Statutes, is amended to  
 333 read:

334 413.371 Independent living program; establishment and  
 335 maintenance.--

336 The division shall establish and maintain an independent  
 337 living program that will provide any appropriate rehabilitation  
 338 services or other services to enhance the ability of persons who  
 339 have significant ~~severe~~ disabilities to live independently and  
 340 function within their communities and, if appropriate, to secure  
 341 and maintain employment. The division, at its sole discretion  
 342 and within the constraints of its funding, may contract with  
 343 centers for independent living to provide such services.

344 Section 6. Section 413.39, Florida Statutes, is amended to  
 345 read:

346 413.39 Administration; independent living program.--The  
 347 division is hereby authorized, in addition to its other duties  
 348 and responsibilities, to administer a program of independent  
 349 living services for individuals with significant ~~severe~~  
 350 disabilities who can benefit from such services.

351 Section 7. Paragraph (c) of subsection (1) of section  
 352 413.393, Florida Statutes, is amended to read:

353 413.393 State plan for independent living.--

354 (1) The state plan for independent living shall be jointly  
 355 developed and submitted by the Independent Living Council and  
 356 the division, and the plan must:

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357 (c) Specify that the state will provide independent living  
 358 services under this part to persons who have significant ~~severe~~  
 359 disabilities and will provide the services in accordance with an  
 360 independent living plan mutually agreed upon by an appropriate  
 361 staff member of the service provider and the individual, unless  
 362 the individual signs a waiver stating that such a plan is  
 363 unnecessary.

364 Section 8. Subsection (6) of section 413.40, Florida  
 365 Statutes, is amended to read:

366 413.40 Powers of division; independent living program.—

367 The division, in carrying out a program of providing  
 368 independent living rehabilitation services to persons who have  
 369 significant ~~severe~~ disabilities, shall be authorized to:

370 (6) Provide rehabilitation facilities necessary for the  
 371 rehabilitation of persons who have significant ~~severe~~  
 372 disabilities or contract with facilities such as centers for  
 373 independent living for necessary services. The division shall  
 374 not, however, assume responsibility for permanent custodial care  
 375 of any individual and shall provide rehabilitation services only  
 376 for a period long enough to accomplish the rehabilitation  
 377 objective or to determine that rehabilitation is not feasible  
 378 through the services available under this section.

379 Section 9. Sections 413.70, 413.72, and 413.73, Florida  
 380 Statutes, are repealed.

381 Section 10. This act shall take effect upon becoming a  
 382 law.